



# On demand programme services: Access services report 2016

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## About this document

This report sets out the extent to which on demand programmes services (ODPS) carried subtitles, audio description or signing during the period from April 2015 to March 2016. It allows Ofcom, consumers, industry, and Government to measure progress in making ODPS accessible to people with hearing and/or visual impairments.

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## Section 1

# Summary

- 1.1 Ofcom regulates a wide range of on demand programme services (“ODPS”), ranging from public service broadcasters’ catch-up services and film services to local TV archives and ‘adult’ websites.
- 1.2 There is currently no statutory requirement on providers of ODPS to make their services accessible to people with hearing and/or visual impairments. This differs from the situation with broadcast television services, where broadcasters must achieve specific accessibility targets. However, Ofcom does have a statutory duty to encourage providers of ODPS to ensure that their services are progressively made more accessible. Providers can do this by making their programmes available with subtitles, signing and/or audio-description<sup>1</sup> (collectively, “access services”).
- 1.3 Ofcom believes that consumers with hearing and/or visual impairments should have increased access to on demand television, in common with the access they currently have to broadcast television. One way in which we can encourage progress in this area is through regular collection of data on how accessible ODPS are. This data can be used to measure progress, and importantly, it can help consumers to find out where they can watch accessible content on demand.
- 1.4 This report gives information on the accessibility of ODPS between April 2015 and March 2016. Key findings include:
  - During this period, 68% of ODPS providers did not provide any access services at all.
  - While 32% did provide some subtitling, only 6% provided audio description and signing.
  - For consumers who use access services, the best place to view on demand content was on a PC via a website – 23% of providers made subtitles available this way.
  - At the other end of the spectrum, very few providers made subtitles available via Connected TV apps (6%) or television set top box services such as Virgin, Sky and YouView (7%). This is a particular concern as consumer groups such as RNIB, Action on Hearing Loss and Sense continue to tell us that many of their members are from an older demographic who prefer to view catch-up television via more conventional ‘living room’ platforms (i.e. set top boxes).
- 1.5 Although we are aware from ODPS providers that there are technical obstacles to providing access services – for subtitling in particular – across a range of platforms, we do not consider these obstacles to be insurmountable. Since taking on sole responsibility for regulating access services on ODPS in January 2016, Ofcom has engaged with industry and consumer groups to fully understand impediments and encourage more rapid progress. As the popularity of catch-up and on demand

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<sup>1</sup> “Audio-description” is a service that provides a commentary for people with visual impairments describing on-screen action, facial expression and other visual elements of a programme.

services increases<sup>2</sup> access becomes increasingly important, and we recognise that consumers are likely to be frustrated by being able watch content with subtitles or audio description on broadcast TV but then finding these access services are not available to them on catch-up and on demand services.

- 1.6 Ofcom strongly believes that consumers with hearing and/or visual impairments should have access to television. Ofcom considers that there has been insufficient progress and that ODPS continue to lag behind broadcast television services. We therefore urge ODPS providers to address existing obstacles to provision, and we will continue to use all the means at our disposal to encourage greater on demand accessibility.

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<sup>2</sup> See Ofcom's Communications Market Report 2016 at <https://www.ofcom.org.uk/research-and-data/cmr/cmr16>

## Section 2

# Report on ODPS accessibility

## Introduction

### What are Ofcom's duties in this area?

- 2.1 Ofcom regulates on demand programme services ("ODPS") under the Communications Act 2003 (as amended) ("the Act")<sup>3</sup>. ODPS regulated by Ofcom include a wide range of services, such as public service broadcasters' catch-up services, film services, local TV archives and "adult" websites.
- 2.2 Ofcom has a duty under section 368C(2) of the Act to encourage providers of ODPS to ensure that their services are progressively made more accessible to people with disabilities affecting their sight, hearing, or both. ODPS providers can achieve this in particular through subtitling, signing, and audio-description (known as "access services").
- 2.3 Ofcom does not currently have any statutory powers to require that ODPS providers make their services more accessible. This differs from the situation for broadcast television, where broadcasters are required by law to make a certain proportion of their programming accessible<sup>4</sup>.
- 2.4 Access to television, whether broadcast or on demand, can play a vital role in enabling participation and inclusion in social and cultural life. Ofcom believes that consumers with sight and/or hearing impairments should have increased access to ODPS, and that this should more closely reflect provision on broadcast television than is currently the case.

### Why are we publishing this report?

- 2.5 On demand content lags some way behind broadcast television in terms of accessibility<sup>5</sup>. We recognise that there is a risk of significant confusion and frustration for consumers: programmes can be subtitled when broadcast, for example, but then appear without subtitles on related catch-up services.
- 2.6 One of the key ways in which Ofcom can encourage accessibility is through the regular collection and publication of data on the accessibility of ODPS. Through this data, we can provide information to consumers on accessible services, while also monitoring and assessing progress. We can also use this process to engage with service providers where improvements and progress are needed in this area.

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<sup>3</sup> Ofcom assumed sole responsibility for regulation of non-advertising content on ODPS in January 2016. Previously, Ofcom had designated regulatory functions to the Authority for Television On Demand ("ATVOD"). The Advertising Standards Authority remains Ofcom's co-regulator for advertising content.

<sup>4</sup> See Ofcom's Code on Television Access Services at <https://www.ofcom.org.uk/tv-radio-and-on-demand/broadcast-codes/tv-access-services>

<sup>5</sup> See the 2015 report by former co-regulator ATVOD at [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0023/58811/as\\_survey\\_report\\_2015.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0023/58811/as_survey_report_2015.pdf)

## What are we reporting on?

- 2.7 The data in this report covers the period from April 2015 to March 2016 (the ‘relevant period’). We required ODPS providers to provide this data under formal information gathering powers<sup>6</sup>.
- 2.8 We required ODPS providers to provide us with details on the total number of hours available on their services, the total number of programmes, and the proportion of each that were provided with subtitles, signing or audio description. We also asked them for information on consumer complaints regarding accessibility (not for publication) and, although we did not formally require them to explain levels of provision, we gave them the opportunity to outline barriers to making ODPS accessible to improve understanding of the issues involved. A copy of the table detailing the information we required from ODPS providers can be found in Annex 1.
- 2.9 ODPS providers make their services available on multiple platforms. Channel 5, for example, makes its service “My 5” available via its own website, via mobile apps, and on the Virgin and YouView set top box platforms. The amount of subtitling, signing, or audio description on each of these ‘outlets’ may differ. So we required providers to specify the amount of access services on each of the outlets via which their services are available.
- 2.10 In line with data collected by Ofcom’s previous co-regulator ATVOD, we asked providers to respond on the basis of all the ODPS content they made available. Some providers gave more detailed responses for each of their branded services – and where these details are available we have given them.

## Which services are covered in this report?

- 2.11 A list of the ODPS providers required to provide data can be found in Annex 2. These services provide ODPS regulated by Ofcom and (to the best of our knowledge) were operational both during the relevant period and at the time of drafting, with the exceptions outlined below.
- 2.12 We note that some service providers (such as Sky and Virgin) provide ODPS but also operate platforms which host the ODPS of others. For example, Sky Go includes both Sky on demand content and that of other providers such as ITV and Discovery. Figures provided here relate only to the provider’s ODPS, not to the platform as a whole.
- 2.13 The report does not cover the following services:

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<sup>6</sup> Section 368O of the Act gives Ofcom the power to require ODPS providers to provide us with information, including to the extent necessary for the purpose of securing compliance with the obligations of the United Kingdom under the Audiovisual Media Services Directive (“AVMSD”). Since the duty to encourage access services under section 368C(2) of the Act derives from an obligation on the United Kingdom in Article 7 of the AVMSD, Ofcom considered it appropriate to use its section 368O power to secure fulfilment of its section 368C(2) duty.

Service	Reason why this report does not cover service
A) ODPS principally providing adult content. <sup>7</sup>	We excluded these services due to the limited consumer benefits we consider are likely to arise from access services on such ODPS, relative to the operational costs of enforcement.
B) BBC iPlayer	Ofcom's duty to encourage accessibility does not apply to the BBC in its public service role and as a provider of an ODPS. However, the BBC has duties in respect of access services as laid out in the new BBC Agreement. <sup>8</sup> The report <u>does</u> apply to the BBC's commercial arm, BBC Worldwide.
C) Non-UK services including Netflix and iTunes	These services are not regulated by Ofcom as they do not fall within UK jurisdiction for the purposes of the legislation applying to ODPS.

### How can this report be used?

- 2.14 Ofcom intends for this report (along with its Annexes) to help consumers make informed choices about the services they use and/or purchase. For subtitling in particular it should help to address two types of questions:
- 1) "where can I watch [e.g.] All4 with subtitles?"; and
  - 2) "which ODPS can I watch with subtitles on [e.g.] YouView?".
- 2.15 This report also allows Ofcom, industry, government, and consumers to measure progress in making ODPS accessible. It highlights the gaps in access services provision on ODPS.
- 2.16 Where possible we have listed accessibility by branded service rather than service provider (e.g. My5 rather than Channel 5) as these are how the services are presented to consumers.
- 2.17 Below we report on each access service in turn (audio description, signing, subtitles). For an interactive table containing data on all access services by outlet, see Annex 4.

<sup>7</sup> By 'adult' content, we mean pornographic content which falls within the British Board of Film Classification's definition of a 'sex work'. See <http://www.bbfc.co.uk/what-classification/18>

<sup>8</sup> [http://www.bbc.co.uk/bbctrust/governance/regulatory\\_framework/charter\\_agreement.html](http://www.bbc.co.uk/bbctrust/governance/regulatory_framework/charter_agreement.html) - see in particular the requirement under paragraph 9 of Schedule 3 which requires the BBC to comply with a code applying to all its UK Public Services, including both broadcast and on demand.

## Audio Description

### Key findings

- 2.18 There has been little progress in providing audio description (“AD”) with content on ODPS. In the relevant period, only five service providers had made content available with AD, up from three in 2015. The new entrants were BBC Store (which launched during the relevant period) and Channel 5. Table 1 sets out levels of audio description over the last three years.
- 2.19 Responses to our information requests indicate that none of the providers who previously indicated plans to introduce AD started provision within the relevant period. The overall percentage of providers offering no AD fell very slightly from 96% in 2015 to 94% in 2016.

**Table 1 – Audio Description in the last three years, as a percentage of total programme hours available**

Service	2014	2015	2016
<b>BBC Store</b>	N/A	N/A	0.2% on website
<b>All 4</b>	15% on website	16% on website	20% on website
<b>My 5</b>	0%	0%	9% on website and 6.3% average across mobile apps
<b>ITV Hub</b>	0%	0.4% on android app	1.5% average across mobile apps
<b>Sky ('push' VOD)<sup>9</sup></b>	8% on push VOD via set top box	13% on push VOD via set top box	6.3% on push VOD via set top box

## Signing

### Key findings

- 2.20 As with AD, this is an area where progress has been limited. Table 2 below details levels of signing over the last three years.
- 2.21 Several respondents, however, pointed out that they contribute to the British Sign Language Broadcasting Trust (“BSLBT”). Content on the BSLBT’s on demand service, BSL Zone Player, is all sign presented.

<sup>9</sup> In our request for information we made a distinction between ‘push’ and ‘pull’ Sky outlets. This is because there are two ways in which the Sky platforms deliver on demand content. ‘Push’ refers to a small selection of content which is automatically recorded to the set top box (this has been known variously as ‘Sky Anytime’ and ‘Showcase’). The majority of on demand content offered on Sky set top boxes is ‘pull’ content (comprising Sky Library / Movies / Sky Store).

- 2.22 Additionally, the technical requirements for supporting signed content mean that there are fewer obstacles to making it available across different platforms. As a consequence, while only five providers made ODPS available with signing in 2016 (just one more than last year) this signed content is available across websites, set top boxes, connected TVs, games consoles, and apps for mobile devices and connected TVs.

**Table 2 – Signing in the last three years, as a percentage of total programme hours available**

	2014	2015	2016
<b>BBC Store</b>	N/A	N/A	13%
<b>BSL Zone Player</b>	100%	100%	100%
<b>ITV Hub</b>	2.3-3%	1.4-2.2%	1.1-1.5%
<b>STV</b>	0%	1.1-1.4%	0.3%
<b>UTV</b>	3%	2.9%	0.6%

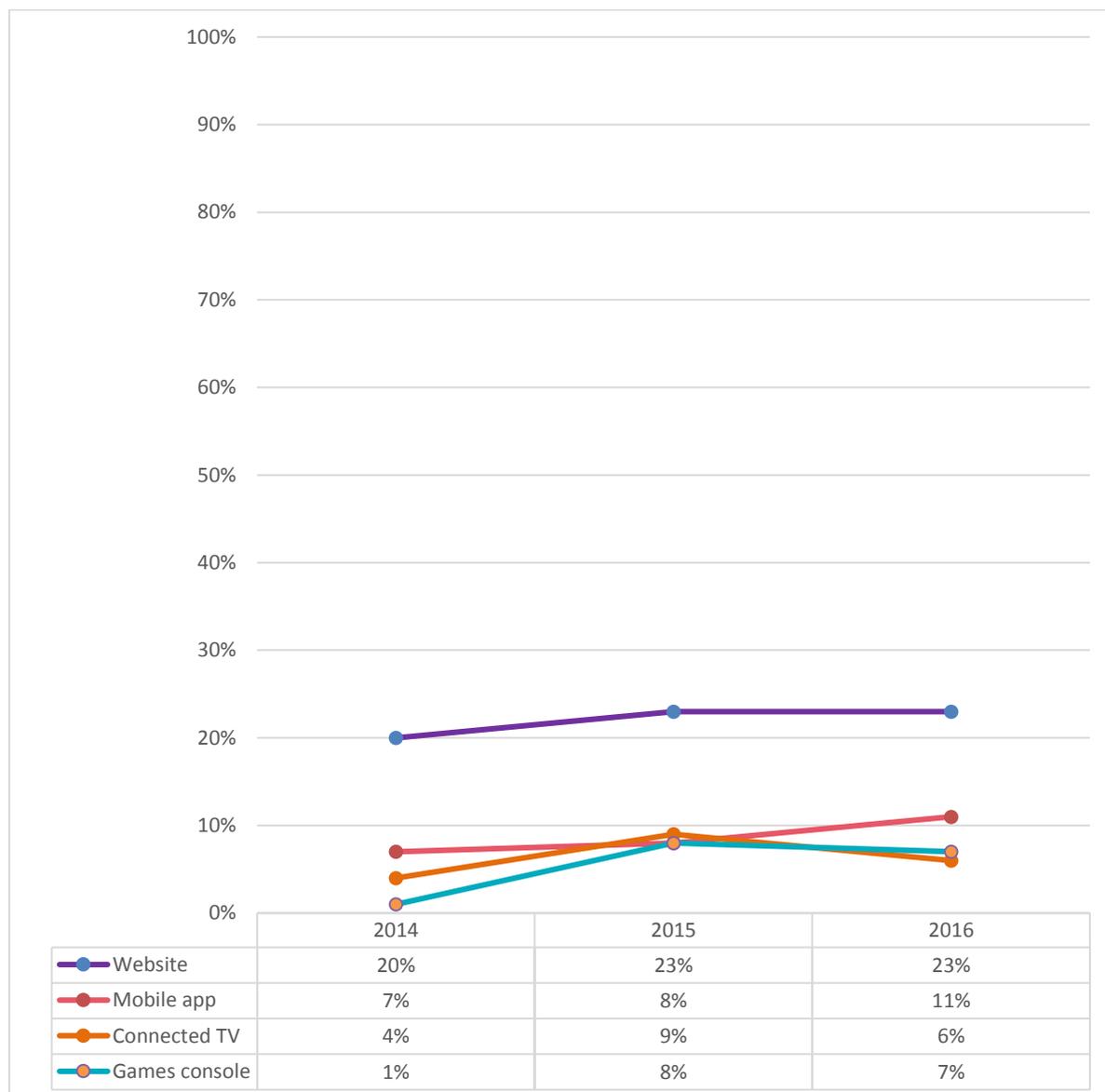
## Subtitles

### Key findings

- 2.23 Only 32% of service providers said that any of their content was made available with subtitles.
- 2.24 Of those who do provide subtitles, we continue to see progress on those platforms which are directly under the provider's control, notably their own-brand websites and mobile apps (both phone and tablet). There are 20 providers providing subtitles via website services, while only 10 did so on mobile apps. Those service providers doing well in this area have typically continued to improve; ITV for example increasing its website subtitling from 70% of programme hours in 2015 to 90% in 2016. Some new entrants – BBC Store and Hayu – have also contributed to an increase in subtitled ODPS.
- 2.25 However, the spread of access services across different outlets appears to have stalled. In 2015 providers outlined plans to begin subtitling across outlets, many of which did not materialise in 2016. Again, most progress has been made with mobile apps, with Channel 4 delivering its plans to subtitle content via its All4 mobile app.
- 2.26 The significant gap in provision continues to be evident when ODPS are accessed by more conventional means, on a television set via a set top box service. There has been very little improvement in the levels of ODPS subtitling seen on the major television platforms such as Sky, Virgin and YouView. Only 7% of providers made subtitles available on their services when viewed through a set top box platform. No set top box outlet carried more than t ODPS offering subtitles. Table 3 shows the proportion of ODPS available with subtitles on each type of outlet, over the last three years. For detail on subtitling available by service and outlet, see Annex 3.

2.27 We understand that there has been some progress since the relevant period, with Sky now subtitling its own ODPS content on its 'pull' VOD service<sup>10</sup>.

**Table 3 – proportion of ODPS<sup>11</sup> available with subtitles on each type of outlet, over the last three years**



<sup>10</sup> See Sky's statement here: <https://accessibility.sky.com/news/subtitles-demand-our-progress-so-far>

<sup>11</sup> Non-adult ODPS only. See 2.13 (a)

## Section 3

# Ofcom response and next steps

- 3.1 There has been some progress in making services progressively more accessible to people with hearing and/or visual impairments during the relevant period, with improvements centred on the amount of website content made available with subtitles. However, there has been little progress in spreading the availability of subtitles from websites to more conventional TV viewing platforms. Likewise, there has been less progress in making on demand content available with audio description.
- 3.2 Ofcom recognises that providing access services on ODPS poses challenges to providers. Alongside this data collection we gave providers the opportunity to outline obstacles to provision. The most common answers were: resources (cost and staff availability), and the differing requirements and capabilities of different platforms.
- 3.3 We recognise that when ODPS providers make their services available over a range of different platforms, each can require access services to a different technical specification. Making this work for each platform can take significant resource. Furthermore, we note that the provider of the ODPS and the operator of the platform must agree on who is to provide this resource.
- 3.4 However, it is Ofcom's view that this work should be prioritised. The popularity of catch-up and on demand services is increasing<sup>12</sup>, which means that consumers with hearing and/or visual impairments are being left further and further behind, without access to content. We have been told that while there are technical obstacles to providing access services these are not insurmountable<sup>13</sup>. Furthermore, in ATVOD's 2015 accessibility report<sup>14</sup>, we heard that ODPS providers were engaged in discussions with platform operators in order to overcome difficulties associated with technology and workflow. It is disappointing that these discussions have not borne fruit in 2016.
- 3.5 Since the relevant period there have been some promising developments: we are aware that several major platforms are conducting updates which will make it easier for ODPS providers to make subtitles available. It is vital that ODPS providers and platforms take this opportunity to work together to increase ODPS accessibility.
- 3.6 Ofcom will itself continue to undertake a range of work to encourage progressively more accessible ODPS. This includes direct engagement with industry and consumers on matters such as technical obstacles and consumer preferences. Ofcom has recently consulted on plans to bring ODPS data collection in line with the equivalent requirements for broadcasters, and to combine reporting of ODPS and

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<sup>12</sup> See Ofcom's Communications Market Report 2016 at <https://www.ofcom.org.uk/research-and-data/cmr/cmr16>

<sup>13</sup> See the report from ATVOD's working group on access services: [https://www.ofcom.org.uk/data/assets/pdf\\_file/0025/83167/working\\_group\\_on\\_access\\_services\\_first\\_report\\_july\\_2014.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0025/83167/working_group_on_access_services_first_report_july_2014.pdf)

<sup>14</sup> The 2015 report is available here: [https://www.ofcom.org.uk/data/assets/pdf\\_file/0023/58811/as\\_survey\\_report\\_2015.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0023/58811/as_survey_report_2015.pdf)

broadcast accessibility in a single report<sup>15</sup>. Ofcom aims to use these developments in data collection and reporting to:

- a. gain more frequent insight into how ODPS accessibility is progressing, enabling us to take more timely action in response;
- b. ensure that providers begin to see broadcast and ODPS accessibility as of equal importance;
- c. enable stakeholders and consumers to compare broadcast and VOD accessibility; and
- d. enable those who require access services to make informed choices.

We have published a statement on these plans<sup>16</sup>.

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<sup>15</sup> Read the consultation at: <https://www.ofcom.org.uk/consultations-and-statements/category-1/on-demand-accessibility>

<sup>16</sup> Read the statement here: [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0011/100226/accessibility-on-demand-programme-services-statement.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0011/100226/accessibility-on-demand-programme-services-statement.pdf)

## Annex 1

# Information required

- A.1 Annex 1 – Information required  
[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0012/100227/accessibility-on-demand-report-annex-1.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0012/100227/accessibility-on-demand-report-annex-1.pdf)

## Annex 2

# Providers required to respond

- A.2 Annex 2 – Providers required to respond  
[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0013/100228/accessibility-on-demand-report-annex-2.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0013/100228/accessibility-on-demand-report-annex-2.pdf)

## Annex 3

# Subtitling by service and outlet

- A.3 Annex 3 – Providers required to respond  
[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0014/100229/accessibility-on-demand-report-annex-3.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0014/100229/accessibility-on-demand-report-annex-3.pdf)

## Annex 4

# Interactive table of accessibility by service and outlet

### A.4 Annex 4 – Interactive table of accessibility by service and outlet

<https://www.ofcom.org.uk/consultations-and-statements/category-1/on-demand-accessibility/interactive-data>

Accessible version:

[http://www.ofcom.org.uk/\\_data/assets/excel\\_doc/0006/100230/accessibility-on-demand-report-annex-4.xlsx](http://www.ofcom.org.uk/_data/assets/excel_doc/0006/100230/accessibility-on-demand-report-annex-4.xlsx)